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CORPORATIONS — DIRECTORS AND OTHER OFFICERS — DE FACTO DIRECTORS. — The *de facto* directors of a private corporation, in due form elected other directors to fill vacancies in their board. An action, in statutory form, was brought to oust all the directors from office. For the new directors it was argued that they had become *de jure* officers, because elected by officers acting in the due course of their assumed duties. *Held*, that the election of all the directors be set aside. *Matter of Ringler & Co.*, 204 N. Y. 30. See NOTES, p. 550.

CORPORATIONS — DIRECTORS AND OTHER OFFICERS — DIRECTORS' ADVERSE INTEREST IN CONTRACT WITH CORPORATION. — A director of a corporation, who was also the superintendent of its factory, contracted with it through its president to superintend its proposed branch factory. *Held*, that the corporation cannot avoid the contract. *Wainwright* v. *P. H. & F. M. Roots Co.*, 97 N. E. 8 (Ind.). See NOTES, p. 553.

CORPORATIONS — INSOLVENCY OF CORPORATION — VOLUNTARY PETITION IN BANKRUPTCY BY DIRECTORS. — By resolution of the board of directors without a vote of the stockholders, a corporation filed a voluntary petition in bankruptcy. *Held*, that the adjudication will not be set aside. *In re Kenwood Ice Co.*, 189 Fed. 525 (Dist. Ct., D. Minn.).

The Bankruptcy Act of 1867 permitted a voluntary petition by a corporation by a vote of the majority of stockholders present at a meeting called for the purpose. U. S. REV. STAT., 1878, § 5122. The present act permits a voluntary petition, but provides no form of corporate action. 36 U. S. STAT. AT LARGE, Sess. II. c. 412, § 3. Directors have power to commit acts of bankruptcy. Thus the weight of authority permits them to make a general assignment for the benefit of creditors. *Rogers* v. *Pell*, 154 N. Y. 518, 49 N. E. 75; *Birmingham Drug Co.* v. *Freeman*, 15 Tex. Civ. App. 451, 39 S. W. 626. But *cf. Abbot* v. *American Hard Rubber Co.*, 33 Barb. (N. Y.) 578. Directors may commit a preference. *Dana* v. *Bank of the United States*, 5 Watts & S. (Pa.) 223. And they may apply for a receiver. *Exploration Mercantile Co.* v. *Hardware & Steel Co.*, 177 Fed. 825. They may also make a written admission of the corporation's inability to pay debts and willingness to be adjudged a bankrupt. *In re Lisk Mfg. Co.*, 167 Fed. 411. *Contra, In re Bates Machine Co.*, 91 Fed. 625. Nor is this an ineffectual act of bankruptcy when the directors solicit a petition by creditors. *In re Moench & Sons Co.*, 123 Fed. 965. So the step taken by the principal case seems inevitable. *Contra, Donly* v. *Holmwood*, 4 Ont. App. 555. Objection on the ground that directors may thus effect a fundamental change should have been taken to the doctrine of general assignment. *Bank Commissioners* v. *Bank of Brest*, Har. (Mich.) 106. See *Beaston* v. *Farmers' Bank of Delaware*, 12 Pet. (U. S.) 102, 138. *Contra, Town* v. *President, etc. of Bank of River Raisin*, 2 Doug. (Mich.) 530. Moreover, it should be noted that the Act of 1867, requiring a vote of the stockholders, did not allow the corporation a discharge, whereas the present act does. *In re Marshall Paper Co.*, 102 Fed. 872.

DAMAGES — MEASURE OF DAMAGES — EFFECT OF NOTICE OF SPECIAL CIRCUMSTANCES AFTER DELIVERY OF GOODS TO CARRIER. — The defendant undertook to carry a printing press by rail to the residence of the plaintiff. Part of it was delivered, and the plaintiff thereupon gave notice of special damages he would suffer if the remainder was not promptly delivered. The plaintiff brought suit for the special damages alleged to have accrued from delay after the notice was given. *Held*, that such special damages cannot be recovered. *Hassler* v. *Gulf, C. & S. F. Ry. Co.*, 142 S. W. 629 (Tex., Ct. Civ. App.).

Unless notice of special circumstances be given to the carrier, damages for delay are limited to those which both parties may reasonably be supposed to

have contemplated at the time of making the contract as a probable result of the breach. *Hadley* v. *Baxendale*, 9 Exch. 341; *Swift River Co.* v. *Fitchburg R. Co.*, 169 Mass. 326, 47 N. E. 1015. But if such notice be given, the carrier is liable for special damages. *Illinois Central R. Co.* v. *Byrne*, 205 Ill. 9, 68 N. E. 720; *Gledhill Wall Paper Co.* v. *Baltimore & Ohio R. Co.*, 119 N. Y. Supp. 623. This rule holds even though the carrier must charge the same rate. *Chicago, etc. Ry. Co.* v. *Planters' Gin and Oil Co.*, 88 Ark. 77, 113 S. W. 352. If the carrier is notified after the goods have arrived at their destination and delays delivery, he is liable for the loss suffered. *Bourland* v. *Choctaw, etc. Ry. Co.*, 99 Tex. 407, 90 S. W. 483. Since the carrier is forbidden by law to refuse the goods, impose special rates, or stipulate against liability, the only reason for requiring notice is that he may know of the emergency in time to exercise the higher degree of care which the situation demands; and for this purpose notice a reasonable time before the delay has occurred should be as effective as notice at the time of making the contract. But the authorities hold otherwise. *Missouri, etc. Ry. Co.* v. *Belcher*, 89 Tex. 428, 35 S. W. 6; *Bradley* v. *Chicago, etc. Ry. Co.*, 94 Wis. 44, 68 N. W. 410.

ELECTRIC WIRES — APPLICATION OF THE PRINCIPLE OF FLETCHER *v.* RYLANDS. — The plaintiff company maintained telegraph lines and electrical appliances on a private right of way and on the highway. The defendant company operated on its adjacent private right of way an electric railroad whose currents interfered with the plaintiff company's lines. The plaintiff sought to enjoin the operation of the railroad unless devices to prevent the interference were installed. *Held*, that an injunction will not be granted. *Postal Tel. & Cable Co.* v. *Chicago, L. S. & S. B. Ry. Co.*, 97 N. E. 20 (Ind.).

For a discussion of the principles involved, see 24 HARV. L. REV. 322.

EMINENT DOMAIN — NATURE OF THE RIGHT OF EMINENT DOMAIN — REMOVAL OF DAM FOR PUBLIC HEALTH. — A statute declared that where a mill had become useless and so remained without repair for five years, the privilege should cease, as against the public health, convenience, and welfare, and that commissioners, wherever they deemed it conducive to those objects, might, without compensation, cause the dam to be removed, and the watercourse cleaned out and improved. *Held*, that the statute is unconstitutional. *Kiser* v. *Board of Commissioners of Logan County*, 97 N. E. 52 (Oh.). See NOTES, p. 551.

EMINENT DOMAIN — WHAT PROPERTY MAY BE TAKEN — PROPERTY ALREADY DEVOTED TO PUBLIC USE. — A city, under a general power, attempted to condemn land already appropriated to the use of a public library, in order to widen a street. It did not appear what part of the library's land the city desired to expropriate. *Held*, that the property cannot be taken under a general power. *City of Moline* v. *Greene*, 96 N. E. 911 (Ill.).

Property may generally be taken by eminent domain from one public use and subjected to another. *City of Boston* v. *Inhabitants of Brookline*, 156 Mass. 172, 30 N. E. 611; *Matter of Petition of New York, etc. Ry. Co.*, 99 N. Y. 12, 1 N. E. 27. But such change of ownership is not allowed where there is no change in the use or its manner of exercise. *Suburban R. Co.* v. *Metropolitan West Side Elevated R. Co.*, 193 Ill. 217, 61 N. E. 1090. Nor is it permissible where the prior use would be thereby materially impaired or destroyed, unless such legislative intent appears expressly or by necessary implication. *Evergreen Cemetery Association* v. *City of New Haven*, 43 Conn. 234. Conversely, property not essential or already in actual use may be recondemned under a general power. *Railroad Co.* v. *Village of Belle Centre*, 48 Oh. St. 273, 27 N. E. 464. Some courts have gone to a considerable length in allowing such expropriation. *Butte, etc. Ry. Co.* v. *Montana Union Ry. Co.*, 16 Mont. 504, 41 Pac. 232;